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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/699,198	10/27/2000	Suhail Nanil	004906.P003	6605

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EXAMINER

SAM, PHIRIN

ART UNIT	PAPER NUMBER
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2661

DATE MAILED: 07/19/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

09/699,198

Applicant(s)

NANIL, SUHAIL

Examiner

Phirin Sam

Art Unit

2661

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 27 October 2000.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-50 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 19-21, 28-30, 36-40 and 48-50 is/are allowed.
- 6) ☒ Claim(s) 1-12, 14-17, 22, 23, 26, 31-33, 35, 41, 42 and 45-47 is/are rejected.
- 7) ☒ Claim(s) 13, 18, 24, 25, 27, 34, 43 and 44 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 27 October 2000 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date 2.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

## **DETAILED ACTION**

### ***Drawings***

1. Figures 1 and 2 should be designated by a legend such as --Prior Art-- because only that which is old is illustrated. See MPEP § 608.02(g). Corrected drawing sheets are required in reply to the Office action to avoid abandonment of the application. The replacement sheet(s) should be labeled "Replacement Sheet" in the page header (as per 37 CFR 1.84(c)) so as not to obstruct any portion of the drawing figures. If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

### ***Claim Rejections - 35 USC § 102***

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) and the Intellectual Property and High Technology Technical Amendments Act of 2002 do not apply when the reference is a U.S. patent resulting directly or indirectly from an international application filed before November 29, 2000. Therefore, the prior art date of the reference is determined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

3. Claims 31 and 32 are rejected under 35 U.S.C. 102(e) as being anticipated by Loehndorf, Jr. et al (U.S. Patent 6,094,437).

Loehndorf, Jr. et al discloses the invention (**claims 31 and 32**) as claimed including an apparatus comprising:

- (a) a layer 2 tunneling protocol (L2TP) access concentrator (LAC) to transmit an Ethernet frame over an L2TP tunnel (see Fig. 3, element 31, col. 9, lines 43-53).
- (b) an layer 2 tunneling protocol network server (LNS) to receive the Ethernet frame from the L2TP tunnel originating at the LAC (see Fig. 3, element 33, col. 9, lines 43-53).

***Claim Rejections - 35 USC § 103***

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 1-12, 14-17, 22, 23, 26, 41, 42, and 45-47 are rejected under 35 U.S.C. 103(a) as being unpatentable over by Loehndorf, Jr. et al (U.S. Patent 6,094,437) in view of Suzuki (U.S. Patent 6,529,479).

**Regarding claims 1-12, 14-17, 22, 23, 26, 33, 35, 41, 42, and 45-47,** Loehndorf, Jr. et al disclose a machine readable medium that provides instructions, which when executed by a set of processors, cause the set of processors to perform operations comprising:

- (a) receiving a frame (see Fig. 3, element 31, col. 9, lines 43-53).
- (b) transmitting the frame over a non-homogenous tunnel, the tunnel distinguishing subscriber traffic (see Fig. 3, element 31, col. 9, lines 43-53).

Loehndorf, Jr. et al does not disclose an Ethernet frame. However, Suzuki discloses the Ethernet frame (see Figs. 3 and 4, col. 6, lines 16-67, col. 7, lines 1-15). At the time of the invention, it would have been obvious to a person of ordinary skill in the art to combine the Ethernet frame teaching by Suzuki with Loehndorf, Jr. et al. The motivation for doing so would have been to provide to place the physical address of either devices in the header to prevent the frame collision occur read on col. 7, lines 10-14. Therefore, it would have been obvious to combine Suzuki and Loehndorf, Jr. et al to obtain the invention as specified in the claims 1-12, 14-17, 22, 23, 26, 33, 35, 41, 42, and 45-47.

***Allowable Subject Matter***

6. Claims 19-21, 36-40, 48050 are allowed.
7. Claims 13, 18, 24, 25, 27, 34, 43, and 44 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

***Conclusion***

8. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.
  - (1) Borella et al (U.S. Patent 6,732,314) discloses method and apparatus for L2TP forward error correction.
  - (2) Mauger (U.S. Patent 6,522,627) discloses managing internet protocol connection oriented services.
9. Any inquiry concerning this communication or earlier communications from the Examiner should be directed to Phirin Sam whose telephone number is (703) 308 - 9294.

The Examiner can normally be reached on Monday - Friday from 8:30AM - 4:00PM.

If attempts to reach the Examiner by telephone are unsuccessful, the Examiner's supervisor, Douglas W. Olms can be reached at (703) 305 - 4703. The fax number for the organization where this application or proceeding is assigned is (703) 872 - 9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at (866) 217 - 9197 (toll-free).

Respectfully submitted,

Date: July 10, 2004

A handwritten signature in black ink, appearing to read 'Phirin Sam', written over a horizontal line.

Phirin Sam  
Patent Primary Examiner